24th Congress---1st Session.

Saturday, March 12, 1836.

The House resumed the consideration of the report of the Committee on Elections on the subject of the North Carolina contested election; which occupied the whole day's sitting.

Monday, March 15, 1836.

In the SENATE, Mr Leigh presented the credentials of W. C. Rives, a Senator from Virginia, in the room of John Tyler resigned.

Mr Rives was then qualified, and took his seat.

On motion of Mr Buchanan, the Senate proceeded to the consideration of executive business.

The bill making a further appropriation for suppressing Indian hostilities in Florida, was read the third time, and passed.

Resolved, That the Committee on Revolutionary Pensions be instructed to inquire into the expediency of revising and consolidating the pension laws.

On motion of Mr Johnson, of Virginia,

Resolved, That the Committee on Revolutionary Pensions be instructed to inquire into the expediency of so amending the act of the 6th of June 1832, as to extend its benefits to those spies and rangers who served six months or more during the war of the Revolution, whether such services were performed in an imbodied corps or otherwise.

Wednesday, March, 16, 1836.

SENATE.

ABOLITION OF SLAVERY.

Mr. WEBSTER, pursuant to notice given by him on Friday last, presented sundry memorials from the inhabitants of Boston; from Wayne county, Michigan, and other places, for abolition of Slavery in the District of Columbia, which he offered for reception, without any desire to create discussion on the subject, and for the purpose of moving to refer them to the Committee on the District of Columbia.

A memorial with a question was laid on the table.

Similar memorials were presented by Mr Ewing of Ohio, Mr Swift, Mr Southard; Mr McKean and Mr Buchannan, on all of which the question of reception was put, and they were finally laid on the table, to wait the decision of the Senate on the memorials presented by Mr Webster.

Mr PRESTON moved that the Secretary of the Senate should prepare a statement of the number, &c. of memorials presented pro and con, on abolition, which was opposed by Mr Walker, and also laid on the table.

EXPUNGING RESOLUTIONS.

Mr. BENTON submitted a preamble to certain resolutions to expunge from the Journal the resolutions condemnatory of President Jackson by drawing black lines round the same, and inserting on the face of the Resolution, Expunged by order of the U. S.——day of———. [lies on the table for consideration.]

Mr KING, of Geo. moved that the Senate proceed to the consideration of Executive business, which was agreed to, and with which they were occupied until they adjourned.

IN SENATE—Thursday, March 17.

DEPOSITE BANKS.

Mr WEBSTER rose to move for the printing of 8000 extra copies of the statement of the affairs of the deposite banks, transmitted by the Secretary of the treasury.

In making this motion Mr Webster called the attention of the senate to the document from the treasury, showing the state of the deposite banks, at the latest dates. He quoted from the tabular statement some of the leading facts. The immediate liabilities of the banks amounted, it appeared to nearly seventy-two millions of dollars, viz: the public deposites, $30 678,879 91; the private deposites $15,043, 033 64; the bills in circulation, $26,243,688 36.

The amount of specie held by these banks, it farther appeared, was $10,198,659 24, that is to say, there is less than one dollar specie for six dollars debt; and there is due to the government by those banks more than three times the amount of all the specie.

There are other items (he said) which swell the amounts on each side, such as debts due to the banks, and debts due from banks. But these are equalling quantities, and of no moment in the view I am taking of the question.

Among the means of these deposite banks I see an item of "other investments," of no less amount than $8,777,228 79. What is meant by these "other investments," I am not informed. I wish for light. I have my suspicions, but I have no proofs. Sir, look at the reported state of the Farmers' and Mechanics' bank of Michigan, the last in the list. The capital of that bank is only $150,000. Its portion of the deposits is no less a sum than $784, 764 75. Now, sir, where is this money? It is not in specie in the bank itself. All its specie is only 51,911 95; all its discounts, loans' &c are only $500,000, or thereabout; where is the residue? Why, we see where it is; it is included in the item "due from other banks $678,766 27." What banks have got this? On what terms do they take it? Do they give interest? Is it in the deposit banks in the great cities? and does this make a part of the other liabilities of these deposit banks in the cities? Now, this is one question; what are these other liabilities? But as to these "other investments," I say again I wish to know what they are. Besides real estate, loans, discount and exchange, I beg to know what other investments banks usually make.

In my opinion, sir, the present system now begins to develope itself. We see what complication of private and pecuniary interets have thus wound themselves round our finances. While the present state of things continues, or as it goes on, there will be no lack of ardor in opposing the land bill, or any other proposition for distributing or effectually using the public money.

We have certainly arrived at a very extraordinary crisis—a crisis which we must not trifle with. The accumulation of revenue must be prevented.—Every wise politician will set that down as a cardinal maxim. How can it be prevented? Fortifications will not do it. This I am perfectly persuaded of. I shall vote for every part of the fortification bill, reported by the military committee. And yet I am sure that, if that bill should pass into a law, it will not absorb the revenue, or sufficiently diminish its amount. Internal improvements cannot absorb it; these useful channels are blocked up by vetoes.

How, then, is this revenue to be disposed of? I put this question seriously to all those who are inclined to oppose the land bill now before the Senate.

Sir, look to the future, and see what will be the state of things next autumn. The accumulation of revenue may then be nearly fifty millions; an amount *equal, perhaps, to the whole amount of specie in the country:* What a state of things is that! Every dollar in the country the property of the government!

Again sir, are gentlemen satisfied with the present condition of the public money in regard to its safety? Is that condition safe, commendable and proper? The member from South Carolina has brought in a bill to regulate these deposit banks. I hope he will call it up, that we may at least have an opportunity of showing, for ourselves, what we think the exigency requires.

A debate ensued on this motion in which Mr Benton, Mr Clay, Mr Calhoun, Mr Wright, Mr. Ewing, Mr Walker, and Mr Black participated—after which,

The motion was agreed to.

PUBLIC LANDS.

The Senate proceeded to consider the bill to appropriate for a limited time, the proceeds of the public lands, and

Mr. HILL addressed the Senate at length in opposition to the principles of the bill. After he concluded his remarks, the Senate adjourned.

In the House the North Carolina election was considered until the hour for the special order, which was the Navy appropriation bill.

This bill was discussed until the hour of adjournment.

IN SENATE, March 18.

The joint resolutions on the subject of the adjournment of the two Houses was laid on the table for the present, after Mr KING, of Alabama, had stated that he intended to fix the 30th of May.

Mr. BENTON's expunging resolutions being taken up,

Mr BENTON made a long argument in favor of his resolutions, dwelling a long time on the six-and-thirty meaning of the word "expunge," and after he had shown that it was the only proper word and the only proper remedy, he went on to consider the merits of his proposition.

Adjourned.

HOUSE.—[No business of importance transacted this day.]

REMARKS OF MR. PRENTISS,

On the question of reception of a petition from the Society of Friends, praying for the Abolition of Slavery in the District of Columbia—Tuesday, March 1, 1836.

Mr President: I am unwilling that the vote which I shall feel myself obliged to give upon this question should be liable, from silence on my part to any misconception. In all my public acts, and on this occasion particular, I am desirous that the grounds upon which I proceed should be distinctly known, so that no misapprehension may exist, with respect to my conduct or my motives, here or elsewhere. I cannot yield my assent to some of the doctrines which has been advanced to this debate; and I wish to say just enough to prevent the possibility of any inference that I acquiesce in them.

Sir, the abolition of Slavery in the District of Columbia is a question, in all its aspects and relations, of great interest and delicacy. It is a question which I have had no disposition to agitate, especially at this time: and at no time would I interfere, in the slightest manner, with slavery as it exists in some of the States. In my public character, I look upon slavery in the States only as the Constitution of the United States looks upon it; as a State institution, existing under State laws and subject only to State authority. I know it only as it is known to the Constitution, and would not treat it otherwise than the Constitution treats it. I would leave it where the Constitution has left it; and I would neither do nor say any thing, in my public capacity here, to disturb the right in this species of property, or in any manner to endanger its security. While I say this, sir, in reference to slavery in the States, I am bound, in candor and frankness, to say, that I regard slavery in this District in a very different light.

The petitions which have been presented here do not ask any interference, or assert any power in Congress to interfere, with slavery in the States.—They are confined to Slavery in this District.—They complain of its existence here as a public evil, and ask the interposition of Congress to redress the grievance. The Senator from South Carolina (Mr. Calhoun) has moved that the petitions be not received. The Senator from Pennsylvania (Mr Buchanan) proposes that the prayer of the petitions be at once rejected.

Sir I cannot agree to either of these motions.—They differ, to be sure, in point of form, but the effect of both, it appears to me, is substantially the same. The first in order, the one now before the Senate, denies, in terms, the right to petition at all on the subject. The other, it is true, does not in form deny the *right*, but while it professes to admit the right, it proposes to reject the prayer of the petitions immediately, without a hearing, and without consideration. They are both essentially preliminary motions, precluding alike the usual reference and examination into the merits of the petitions; and in my judgment they both, in effect abridge the right secured by the Constitution; or, more properly speaking, the right recognised by the Constitution as a pre-existing right; a right original and inherent of the People. If we can make no law abridging the right to petition, we surely can neither rightfully refuse to receive a petitions, nor reject it *instanter*, on its reception, without a hearing, without any inquiry into the subject matter.

The distinction between rejecting the *petition*, and rejecting the *prayer* of the petitions, immediately on its being received, which is the motion proposed by the Senator from Pennsylvania is too refined and abstract in my apprehension, for a subject of such common and universal interest to the People as the privilege and right to petition.—The distinction, I must repeat, is, to my mind, unimportant, and exists rather in form than in substance. The character of the motion is not altered, or at all varied, by the circumstance that the motion admits of discussion. Discussion may be had on almost any and every preliminary motion. Discussion, free and liberal discussion, has been had on the motion not to receive. That motion is still pending; and if discussion is all that is to be looked to, every object has been attained, and gentlemen may as well vote for that motion at once. The step next proposed to be given to the case. The step next proposed to be given to the petition, after it shall be received is equally summary, denying, as it does, investigation and consideration in the accustomed forms of proceeding and though it may be a formal and technical compliance with the Constitution it is after all, to every practical and essential purpose, equivalent to a rejection of the petition itself. If we are bound to receive, we are bound to hear and consider; and an abrupt and premature rejection of the prayer of the petition, if not a denial of the thing belonging to the right which of any importance.

When petitions are decorous in their language, and contain nothing which can be justly deemed intentionally offensive; when they come from persons competent to petition, and treat of subjects upon which it is competent for Congress to act, I hold that we are bound to receive them, and give them a respectful consideration. No petition, in my opinion, ought to be rejected or can constitutionally be rejected and refused a hearing, on account of the nature of the subject of which it treats, unless the subject be obviously and unquestionably beyond the constitutional power of Congress.—With this limitation of the right it belongs, and must, from the very nature of the right, necessarily belongs exclusively to the petitioners themselves to judge of the subject-matter. If Congress can discriminate between the subjects, and say that upon subjects petitions may be received but upon others they shall not be received, what I ask, becomes of the right to petition? what is the right worth? It will be in vain, sir, that we acknowledge the right, if we thus limit its extent, if we thus control its exercise.

These preliminary notions, for I can call them nothing else, go directly, it appears to me, to impair, to narrow, and abridge the right. If we really mean that the right shall be enjoyed in its just its legitimate extent, we shall forbear to embarrass it, to render it nugatory, by questions of this sort. We shall rather treat the petitions, as I think we are bound to treat them, and as they have always heretofore been treated, according to the ordinary rules and usages of parliamentary bodies in such cases.

I regret exceedingly the harsh expressions which gentleman have thought fit to apply to the petitioners. They have been denounced as incendiaries: they have been charged with criminal, with treasonable intentions; with intentions to excite a servile war, and subject the whole Southern country to pillage, havoc, and devastation. Sir, we are apt to fall into the very common error of supposing that all who differ from us, especially on subjects of an interesting and exciting nature, do so from unworthy motives, and not from honest conviction. With some of the persons who have signed petitions on this subject I am well acquainted. I know them to be intelligent, patriotic, highly respectable. Their opinions may be strongly stated; their arguments may be ill-digested; their illustrations may be ill-suited to the taste or the judgment of those whose opinions they oppose; but that all, the whole concourse, proceeds from a conscientious, or their part, of doing and saying what is right, I neither have nor can entertain any doubt.

With me, sir, it does not admit of a question, that the petitioners believe, sincerely believe, what they profess to think that the honor of the country, the prosperity of the country, the best and highest interests of liberty and humanity, are involved in this question. If they are wrong in their opinions, or express them with too much boldness and independence, the fault if it be one, is to be found in the institutions of the country; in the civil and political principles of the country; in the education of the country. It is from these sources that the petitioners have imbibed their opinions, as well as the spirit which prompts them to express them with manly freedom; and, sir, you cannot by any law you can make, or by any vote which may be here given, repress or restraint the free expression of their opinions, any more than you can stop or check, by legal enactment, or legal coercion the course and current of their thoughts. It would be unwise to attempt to do so. We should rather treat them as they have heretofore been treated.—We should resort to do extraordinary measures.—We should observe the ordinary rules and usages of this body, and permit the petitions, as usual, to go to a committee. This is not only the just constitutional course, but the course, in my opinion, enjoined upon us by every consideration of policy, as well as of duty.

Sir, upon the constitutional question whether Congress has power to abolish slavery in this District, we had, some days ago, a very compact, and intelligible argument from the Senator from Virginia; and from the known ability and habits of close and through research of the Senator, we have a right to presume, and, indeed must presume, that every consideration was presented, in support of his doctrine, of which the subject is susceptable.—Although the lucid simplicity, the exact and eloquent brevity of his style and reasoning, interested and charmed me much, the Senator must pardon me if I say that his argument failed to convince me.

Two propositions were relied upon as the principle basis of the argument. It was insisted, first that the act of cession of Virginia expressly interdicted the exercise of the power of Congress.

The act, after ceding the territory, and relinquished to the U. States "absolute right and exclusive jurisdiction over it," provides "that nothing herein contained shall be constructed to vest in the U. States any right of property in the *soil*, or to effect the rights of individuals *therein* otherwise than the *same* shall or may be transferred by such individuals to the U. S."

This clause, which was evidently inserted in the act from abundant caution, was intended to define and ascertain, more exact precision, the subject matter of the grant, and to preclude, by express negative words, the possibility of its being constructed to transfer any right or interest in the soil itself. This is not only the gramatical reading, but the natural and plain sense of the clause; and, giving to it its utmost import and extent, it is manifest that it imposes no limitation or restriction whatever upon the legislation of Congress.

It was futher insisted that, independent of the proviso in the act of cession, Congress did not possess, and could no excercise the power in question. It was said that neither the Legislature of Virginia nor that of Maryland had any power to abolish the right of property, and that they could not grant or transfer to Congress a power they did not themselves possess.

Sir, the competency of the Legislatures of Virginia and Maryland to cede the territory, and relinquish to the U. S. full and absolute jurisdiction over it appears from the act of Virginia that jurisdiction was surrender to the U. S. to be held and exercised "*pursuant*," as the act expresses it, "*to the eighth section of the first article of the Constitution of the United States.*" That section, it will be seen confers upon Congress "exclusive legislation in all cases whatsoever" over the territory. When the jurisdiction of Virginia and Maryland ceased, the jurisdiction of the U. States commenced; and the question, whether Congress can abolish slavery in this District, depends, not upon any powers granted to it by the Legislatures of Virginia and Maryland, for they could grant no, but upon the powers given to it by the Constitution of the U. S.

The Constitution, as we have already seen, gives to Congress "exclusive legislation in all cases whatsoever" over the District—powers were as large and extensive as could well be conferred, and probably as full and absolute as belong to the Legislatures of any of the State. Congress, then in its local legislation for its District must have at least as ample power over slavery within its limit as any State Legislature possesses, or can exercise over slavery in any of the States.

Sir, I hold, and I suppose it will not be denied that the law of the land is the foundation of all rights of property. They exists only by and under the law, and cannot exist independent of it.—They may be said to owe their origin and existance to the Legislature. This is literally and peculiarly the case with respect to the right of property in slaves. No such right it is well known, is recognised, or ever tolerated, by the common law. It is true that a century and a half ago the court of common please in England adjudged that *trover* would lie for a negro boy, "because," said the court, "*they were heathens and therefore a man might have property in them.*" But in a subsequent case, a few years after wards, in the King's Bench, it was determined by the whole court that *trover* would not lie for a negro any more than for any other man, "for by the common law," said Lord Holt, "no man can have a property in another."

In all the States where slavery exists, the right of property in slaves must be derived from positive enactments of the Legislature; and in this District I take it, that, independent of legislation, either original on the part of Congress, or adopted by it, the right does not, and would not exist at all.—But it is probably not very material, as to the power of the Legislature over it, whether the right is derived from acts of positive legislation, or from the common law.

I have said, sir, that all rights of property owe their origin and existance either to statute or common law; and it further that it cannot be maintained that the Legislature, as the law-maker, has no power whatever over the right of property. The proposition certainly is not true in a general and unqualified sense. The clause in the constitution of the States and of the United States which provides that private property shall not be taken for public use without compensation, certainly implies the existence of a power in the Legislature over it. If a law is made by which a person is deprived of the right to certain property, taken for public use, it is by virtue of such law that the property ceases to be his: and though the law provides a compensation, the right of property is not the less taken away against the will of the proprietor.

The truth is, the rights of property are subject to legislative action and interference except where such action or interference is prohibited or restrained by constitutional provisions. So far a restrictions are imposed upon it by the Constitution, the power of the Legislature is qualified and limited. It is admitted that a right or interest in property once actually vested by law cannot be taken away by the Legislature, except when taken for public use and then only on making compensation. This is made a fundamental principle in the organic systems of this country; and without it, law to use the language of another, would be tyranny, and government would be oppression. The Constitution, regarding the right of property as one of the most important of rights, and the protection and security of it as one of the chief objects of government, declares that no persons shall be deprived of life, liberty, or property, without due process of law. This process is a judical process and of course can eminate only from the judicary. Besides no person can be deprived of a right, unless he has forfited such right. The forfeiture can be ascertained and declared only by a judicial tribunal. The adjudication is in its nature a judicial act, which cannot be performed any more than the process already mentioned can be issued by the Legislature; because, according to the theory and provisions of the Constitution, one branch of the government cannot exercise powers properly belonging to another.

But although a present vested right cannot be taken away by a direct act of legislation, except for the purpose and on the terms which have been stated, the Legislature may, and constantly does, exercise a power over property, in many ways, without being supposed at all to interfere with or disturb the principle of vested interests. Not to mention statutes of limitations, and various other legislative acts which operate upon the rights of property, it regulates and controuls the transmission property by descent, and the disposition of it by will. It can alter, modify, and change the law in these particulars as it pleases. It can say who shall be admitted as heirs, and what shall be the rule of distribution and division among them; or it can declare that property shall not pass at all by descent, but shall, in all cases, escheat to the State. This may seem a strong, and perhaps, a bold proposition. Such a law would, indeed, be very impolitic and unjust, in reference to most species of property; but general and prospective in its operations, it would be difficult to raise any valid objection to it on the ground of constitutional power. The question of policy, of right and justice, is one thing, the question of constitutional power is another. Who, I ask, would be deprived of any actual vested interest, by a law providing that no one shall take, by inheritance any right of property in slaves? Or by a law, that all children born of slaves after a certain period, shall be free? Such enactments would touch no rights, actual and vested, but rights, if they can be called such, resting in expectancy merely, rights purely potential in their nature and character. It may be added that though a repeal of the existing laws on the subject of slavery in this District might not affect any actual subsisting right, it is obvious that no property could be thereafter acquired in any person, got using, or held in service in the District, at the time of such repeal.

But I go futher, sir. If Congress, under the clause giving it "exclusive legislation in all cases whatsoever" over the District, have authority to impose taxes, and provide how they shall be raised for local and municipal purposes, I do not see why it has not the power, by means of taxation, to effect the abolition of slavery here. I say nothing of the right or justice of exciting the power for such a purpose. I speak only of the power, and of its capacity to be used, to accomplish such an end. But, however this may be, I hold that Congress, if the public interests and welfare require it may directly, and at once, emancipate the slaves, on making a just compensation to the owners.—The clause in the Constitution, which regulates the taking of private property for public use, is not, in my opinion, restricted to such property, merely, as may be converted and applied to the actual use and employment of the public. I think the word use, in the Constitution, is to be understood in a liberal sense, as equivalent to purpose, or benefit; and that whatever is taken for public purposes, or for the public benefit, is taken for public use, within the meaning of the constitution.

These, sir, are my doctrines upon this very interesting and important subject. I have stated them briefly but frankly; giving a glimpse, rather than a view, of the reasons by which they may be sustained. I have felt it incumbent upon me to say something, and I could not, in the proper discharge of my duty here, well say less.

I have not been able to persuade myself that it would subserve the cause of truth and justice, contribute at all to the peace of the country, or serve in any degree, to strengthen the union of these States, to withhold the expression of our real opinions upon this question. The people should not be blinded upon this subject, any more than upon any other. Since it is agitated, it is due to the country, it is due both to the North and to the South, to state explicitly the views we entertain upon this most important matter. To know that Congress has the power to abolish slavery in this District, need not, and will not, produce alarm or apprehension in any quarter of the Union. The People every where must feel assured, and ought to rest satisfied, that this power, like all other powers under the Constitution, will be exercised with becoming wisdom and discretion; with a just regard to the interests not only of this District, but of the whole country. They ought to know, and must know, that when policy, expediency, and justice concur in the measure; when it can be adopted with safety to the Union, and security to all—then, and then only, will the power be exercised; and that when exercised, it will be in such a manner as shall neiter disturb the public tranquility, nor violate the sanctity of private rights.

Sir, I think the time must come, and will come, when slavery will cease to exist in this District.—The opinion of all Chrisendom, the opinion of the civilized world, is becoming uniform and settled on the general subject of slavery. Its influence must be felt. It cannot always be resisted: and the time will come when Southern men will cease their opposition to a measure, to which they now feel, and I have no doubt sincerely feel, that they cannot yield their assent, without danger, great and imminent danger, to the social relations and established institutions of the states in which they live.

Florida War.

HEAD QUATERS—ARMY OF FLORIDA.

PICOLATA, Feb, 22d, 1836.

Major Gen. Scott, having arrived in Florida, assumes the general direction of the war against the hostile Seminole Indians.

The Staff officers attached to General Head Quaters, at present are Capt. Canfield, (Topographical Engineers). Lieut. Chambers (Chief of the Commissariat), and Lients. Van Buren, Temple and Johnson, Aides-de Camp. All orders and instructions conveyed by either of them in the name of the Major General, and whether orally or in writting, will be duly obeyed.

The right and left wings of the army, or the troops on the West and East side of the St. Johns river, will be continued under the respective orders of Brigadier Generals Church and Eustis, and the forces which are to operate from Tampa Bay, under Col. Lindsay, will, when they come into line, constitute the centre. The wings will soon be greatly reinforced by the arrival of both regulars and volunteers.

The three immediate commanders of the right left and centre of the army, respectfully, will generally receive orders direct from G. Head Quarters but, of course every junior will obey any senior according to the rules and articles of war, and the usage of the service, whether the parties belong to the militia, or the militia and regular army.

As for the first time, patriotic volunteers from South Carolina, Georgia, Alabama, Louisiana and Florida, are to come into the same line with a portion of the regular army, it is confidently hoped that a beneficial emulation, without unkindness or prejudice, may animate the different forces. All are equally Americans, actuated by the like determination—to subdue a treacherous and a common foe.

But valor and patriotism alone are not sufficient for that end. Some tactical instruction, and an exact obedience to commands, are also necessary. Instruction can only be acquired by opportunity and labor. A firm resolution to *obey* accomplish the great requisite at once. Let the resolution be taken by *all* who have nobly turned out to avenge their butchered countrymen.

But, again;—to parade to march, to mount guard and to fight, are not the only duties of war; to handle and preserve the supplies of the army, and to construct camp and other field defences, are equally required of every good soldier. A corps of servants for these purposes, would be too large and cumbrous. It would double the army, and render one half to *consist*, and the other too delicate for the glory of a well contested field. Fatigue parties must, therefore, when wanted, be furnished by all the corps in their turn proportionally.

WINFIELD SCOTT.

The Florida War. The following particulars of the progress of the war in Florida, possesses considerable interest. We think there can be little ground of apprehension for the safety of Gen. Gaines and his army, even if Gen. Scott should not come to his rescue. With a force of 1800 or 2000 men, and with four twelve pounders, he will probably be able to protect himself, and we should hope even to surround the camp of the enemy, so as to compel them to surrender, without cutting them to pieces by an assault upon their town. We are